

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NOS.2818, 2825 AND 2878 OF 2017

C O M M O N O R D E R

The respondent in these three civil revision petitions under Article 227 of the Constitution is the same and the issue raised is common to all three cases. They are therefore amenable to disposal by way of this common order.

The respondent is the landlady and the petitioners in these three cases are her tenants. She filed O.S.Nos.462, 466 and 468 of 2013 before the learned VII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, seeking delivery of vacant possession of the tenanted premises by evicting the defendant in each of the cases and for damages for illegal use and occupation thereof.

The defendants in the three suits filed separate applications therein seeking re-call of the landlady (P.W.1) for cross-examination. I.A.No.392 of 2017 was filed in O.S.No.462 of 2013 while I.A.No.396 of 2017 and I.A.No.394 of 2017 were filed in O.S.No.468 of 2013 and O.S.No.466 of 2013 respectively. By separate orders dated 12.04.2017, the trial Court dismissed the I.As. Aggrieved thereby, the tenants are before this Court.

Heard Sri V.V.Satish, learned counsel representing Sri O.Manohar Reddy, learned counsel for the petitioners/tenants, and Smt.K.Pallavi, learned counsel for the respondent/landlady.

Perusal of the orders under revision reflects that the trial Court was of the opinion that full opportunity had been given to the tenants to cross-examine the landlady (P.W.1), a 70 year old senior citizen, before the Advocate-Commissioner and, therefore, there were no

bonafides in the petitions filed by the tenants to re-open her evidence for further cross-examination.

Sri V.V.Satish, learned counsel, would place reliance on the Advocate-Commissioner's report of cross-examination dated 02.01.2016, wherein the Advocate-Commissioner recorded that cross-examination was deferred at the request of the defendants' counsel, and contend that the trial Court was in error in concluding that full opportunity was given to cross-examine P.W.1.

Smt.K.Pallavi, learned counsel, would however point out that the landlady (P.W.1) was cross-examined at length before the Advocate-Commissioner and the matter was deferred for further cross-examination, if any, by the Advocate-Commissioner on 02.01.2016. The matter then came up before the trial Court on 07.01.2016 and the junior counsel appearing for the tenants in each of the matters reported before the Court that there was no further cross-examination of P.W.1. The matter was accordingly directed to be posted for further evidence of the plaintiff on 29.02.2016. On the said day, the plaintiff-landlady reported that she had no further evidence and the matter was posted for the defendants/tenants' evidence on 22.03.2016.

Smt.K.Pallavi, learned counsel, would further point out that thereafter, the tenant was examined in each case as D.W.1 and his cross-examination was also concluded. Copies of the examination and cross-examination of the tenants in each of the cases as D.W.1 are also produced before this Court.

Sri V.V.Satish, learned counsel, would place reliance on **MAHARASHTRA V/s. RAMDAS SHRINIVAS NAYAK**¹, wherein the

¹ (1982) 2 SCC 463

Supreme Court observed that the statements of fact as to what transpired at the hearing, recorded in the judgment of the Court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence.

Learned counsel would state that once the Advocate-Commissioner, the Officer appointed by the Court, recorded that the cross-examination of P.W.1 was deferred, it must be construed that the tenants did not complete their cross-examination. However, the version put-forth by Smt.K.Pallavi, learned counsel, is borne out by the docket proceedings in each of the suits which have been placed on record. The docket proceedings reflect that on 07.01.2016, the trial Court adjourned the matter to 29.02.2016 for further evidence, if any, which can be filed even before the Advocate-Commissioner. On 29.02.2016, the plaintiff's counsel reported no further evidence and the matters were adjourned to 22.03.2016 for defendants' evidence. The same orders are found in all the three suits. It is therefore clear that on 07.01.2016, the trial Court adjourned all the matters for further evidence of the plaintiff, implying that the examination of P.W.1 stood concluded. On 29.02.2016, the plaintiff reported no further evidence and the matters were adjourned for the defendants' evidence. Significantly, the petitioners herein, being the defendants in the three suits, thereafter led their own evidence by examining themselves as D.W.1 in each of the suits. Had there been any grievance with regard to not being allowed an opportunity to further cross-examine the landlady (P.W.1), they would not have proceeded with their own evidence. However, that is what they did. It appears that as an afterthought, by relying upon the stray observation in the Advocate-Commissioner's report, they filed the subject I.As. seeking

to further cross-examine P.W.1. This was obviously a ploy on their part to protract the suit proceedings. The finding of the trial Court that this measure on their part was only a desperate attempt to delay the final adjudication of the cases, which were posted for final arguments, is therefore fully justified.

On the above analysis, the orders under revision do not brook any interference, be it on facts or in law.

The civil revision petitions are dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

18th AUGUST, 2017

PGS



SANJAY KUMAR,J